

1. The preliminary hearing Order should be affirmed.
2. For approximately the last four years, claimant worked for the respondent as an admissions clerk at Rainbow Mental Health, a psychiatric hospital. During an average

eight-hour workday, claimant would spend several hours a day doing repetitive work with her hands. In approximately June 1999, claimant began experiencing pain, swelling, and numbness in both hands and arms when she slept at night.

3. The Appeals Board affirms the Judge's finding that claimant's work activities caused or contributed to the bilateral carpal tunnel syndrome that claimant developed. That conclusion is supported by the expert medical opinions of hand surgeon Dr. Gary L. Baker, who wrote the following in a December 1, 1999 letter to claimant's attorney.

Ms. Poore is suffering from two work-related diagnoses. The first is a bilateral work-related tenosynovitis in each forearm and wrist compartment. The second is a compression neuropathy. Both diagnoses are the result of work-related repetitive activity. The patient alters her tasks while working and this is probably why both limbs are involved. . . . I believe to my best medical certainty that Ms. Poore has developed carpal tunnel syndrome and bilateral volar wrist tenosynovitis as a direct result of her work-related repetitive activity. I do not believe that her hobby of sewing contributes to any significant extent to this [sic] diagnoses.

The Appeals Board is aware that Dr. John B. Moore IV saw claimant at the respondent's request on one occasion in August 1999 and that Dr. Moore believes claimant's carpal tunnel syndrome is not a work-related injury. But in this instance, the Board finds Dr. Baker's opinions more persuasive.

4. An injury is compensable under the Workers Compensation Act even where the accident only serves to aggravate a preexisting condition.¹ The test is not whether the accident caused the condition, but whether the accident aggravated or accelerated a preexisting condition.²

5. Workers have the burden of proof to establish their rights to compensation and to prove the various conditions upon which those rights depend.³

6. "Burden of proof" means the burden to persuade by a preponderance of the credible evidence that a party's position on an issue is more probably true than not when considering the whole record.⁴

¹ Odell v. Unified School District, 206 Kan. 752, 481 P.2d 974 (1971).

² Woodward v. Beech Aircraft Corporation, 24 Kan. App. 2d 510, 949 P.2d 1149 (1997).

³ K.S.A. 1999 Supp. 44-501(a).

⁴ K.S.A. 1999 Supp. 44-508(g).

7. Because claimant has proven that she injured herself while working for the respondent, the request for preliminary hearing benefits should be granted.

8. As provided by the Workers Compensation Act, preliminary hearing findings are not binding but subject to modification upon a full hearing of the claim.⁵

WHEREFORE, the Appeals Board affirms the February 1, 2000 preliminary hearing Order entered by Judge Sample.

IT IS SO ORDERED.

Dated this ____ day of March 2000.

BOARD MEMBER

c: Timothy M. Alvarez, Kansas City, MO
Marcia L. Yates, Topeka, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director

⁵ K.S.A. 1999 Supp. 44-534a(a)(2).